

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LOURDES E. TRUJILLO,

Plaintiff,

vs.

02-1509
CIV 04-646-JB/RLP

BOARD OF EDUCATION OF THE
ALBUQUERQUE PUBLIC SCHOOLS;
and ANTHONY GRIEGO, individually
and in his official capacity as Principal of
Valley High; Albuquerque Public Schools,

Defendants.

MEMORANDUM OPINION AND ORDER
GRANTING MOTION FOR ORDER TO STAY PROCEEDINGS

This matter comes before the court on the Motion of Defendant Griego, for a stay of all proceedings in this case. (Docket No 39). Defendant seeks this stay until resolution of his pending Motion to Dismiss which is predicated on the defense of qualified immunity. (See Docket No. 37). Plaintiff opposes Defendant's request for a stay.

The power to stay proceedings is incidental to the court's inherent power to control the disposition of the cases on its docket. Pet Milk Co. v. Ritter, 323 F.2d 586, 588 (10th Cir.1963). The court may exercise the power to stay to provide economy of time and effort for the court itself and for counsel and litigants appearing before the court. Landis v. North American Co., 299 U.S. 248, 255, 57 S.Ct. 163, 81 L.Ed. 153 (1936).

It is appropriate to stay discovery upon a defendant's assertion of an immunity defense in a dispositive motion. Siegert v. Gilley, 500 U.S. 226, 232, 111 S.Ct. 1789, 114 L.Ed.2d 277 (1991). Generally, a defendant is entitled to have questions of immunity resolved before being required to engage in discovery and other pretrial proceedings. Id. "One of the purposes of immunity . . . is to

spare a defendant not only unwarranted liability, but unwarranted demands customarily imposed upon those defending a long drawn out lawsuit." Id. The Supreme Court has made it clear that until the threshold question of immunity is resolved, discovery should not be allowed. Harlow v. Fitzgerald, 457 U.S. 800, 818, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982).

Applying these standards, and in light of the fact that Defendant's Motion to Dismiss is predicated on the defense of qualified immunity, I find a stay of all proceedings in this matter is legally appropriate and economical in terms of time and effort for the court itself and for counsel and litigants appearing before the court. Accordingly, Defendants' Motion to Stay (Docket No. 39) is granted.

IT IS SO ORDERED.


Richard L. Puglisi
United States Magistrate Judge